

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed August 14, 2007. Through this response, claims 1 and 3-12 have been amended, and claim 2 has been canceled without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Lenderink Reference and 35 U.S.C. 102(a)**

Applicants submit that Lenderink et al. (NL 1018212C, WO 02/099286, hereinafter "*Lenderink*") is not available as a reference under 35 U.S.C. 102(a) against the present application. Both the subject matter of the present application and *Lenderink* were invented by Dutch citizens, and both were under an obligation of assignment at the time of the invention of the subject matter of the present application to Seimens Industrial Turbomachinery B.V., of 1, Lansinkesweg, 7553 AE Hengelo, The Netherlands, which is a Dutch company. The present application claims priority to an application filed in The Netherlands on October 15, 2002, which is before *Lenderink*'s publication date of December 12, 2002. Therefore, the subject matter of the present application was not "...known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent." Applicants therefore respectfully submit that *Lenderink* is not available as a reference against the present application under 35 U.S.C. 102(a), and requests that the rejections of the claims under 35 U.S.C. 102(a) be withdrawn.

### **II. 103(c) Statement**

*Lenderink* is removed as a reference under 35 U.S.C. 103(a) via 35 U.S.C.102(e) because the reference and the claimed invention were, at the time the invention was made, owned by the same person. Please see the following 103(c) statement:

#### **103(c) Statement**

Application 10/531,405 and Lenderink et al. (NL 1018212C, WO 02/099286) were, at the time the invention of Application 10/531,405 was made, commonly owned by Seimens Industrial Turbomachinery B.V., of 1, Lansinkesweg, 7553 AE Hengelo, The Netherlands.

### **III. Claim Rejections under 35 U.S.C. 112, second paragraph**

Claims 11 and 12 stand rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. Claims 11 and 12 have been amended, thereby rendering these rejections moot. Accordingly, Applicants respectfully request that the rejections of the claims be withdrawn.

#### IV. Claim Rejections Under 35 U.S.C. 102(a)

Claims 1, 7, and 9 stand rejected under 35 U.S.C. 102(a) as allegedly anticipated by *Lenderink*. Applicants respectfully submit that the rejections have been rendered moot by the above-described amendments. Independent claim 1, as amended, recites (emphasis added):

A compressor unit, comprising:

a centrifugal compressor for compressing a gas and an electric motor having a stator and a rotor for driving the compressor, the compressor and the electric motor being accommodated in a common gastight housing which is provided with a gas inlet and a gas outlet, the stator being accommodated in a separate stator space, which is delimited by a wall section, surrounding the stator, of the housing of the compressor unit, a gastight partition which extends between the stator and the rotor of the electric motor, and at least one end wall which extends between the partition and the housing of the compressor unit, wherein the partition extends freely between the stator and the rotor of the electric motor and comprises a material of sufficiently high strength for it to remain clear of the stator and the rotor under working pressures of the gas which may occur inside the housing, ***wherein the high-strength material of the partition comprises a fibre-reinforced plastic.***

The above-emphasized claim limitations are the subject matter of cancelled claim 2, which was rejected under 35 U.S.C. 103(a) as unpatentable over *Lenderink*. *Lenderink* is not available as a reference against the present application under 35 U.S.C. 102(a) for the reasons outlined above. Further, because the present application and *Lenderink* were commonly owned at the time of the invention of the subject matter of the present application, *Lenderink* is disqualified as a reference against the present application under 35 U.S.C. 103(a) via 35 U.S.C. 102(e) by the provisions of 35 U.S.C. 103(c). Therefore, for at least these reasons, Applicants request that the rejection of claim 1 be withdrawn.

Because independent claim 1 is allowable over *Lenderink*, dependent claims 7 and 9 are allowable as a matter of law for at least the reason that the dependent claims 7 and 9 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

**V. Claim Rejections Under 35 U.S.C. 103(a)**

Claim 2 stands rejected under 35 U.S.C. 103(a) as allegedly unpatentable over *Lenderink*. Claims 3-6, 8, and 10 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over *Lenderink* in view of Brunet et al. (U.S. Patent No. 6,350,109).

The subject matter of cancelled claim 2 has been incorporated into independent claim 1, and is discussed above. Regarding claims 3-6, 8, and 10, *Lenderink* is not available as a reference against the present application under 35 U.S.C. 102(a) for the reasons outlined above. Further, *Lenderink* is disqualified as a reference under 35 U.S.C. 103(a) via 35 U.S.C. 102(e) by the provisions of 35 U.S.C. 103(c). Because independent claim 1 is allowable over *Lenderink*, dependent claims 3-6, 8, and 10 are allowable as a matter of law for at least the reason that the dependent claims 3-6, 8, and 10 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Therefore, for at least these reasons, Applicants submit that the rejections of the claims are rendered moot, and respectfully request that the rejections of the claims be withdrawn.

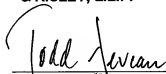
**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully Submitted,

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